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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,988	12/31/2003	Duane L. McDonald	17,858.3	9975
23556 7590 02/26/2008 KIMBERLY-CLARK WORLDWIDE, INC. Catherine E. Wolf 401 NORTH LAKE STREET NEENAH, WI 54956				
EXAMINER				
BUL, LUAN KIM				
ART UNIT		PAPER NUMBER		
3728				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/749,988

Applicant(s)

MCDONALD, DUANE L.

Examiner

Luan K. Bui

Art Unit

3728

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-26 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-14,16-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S5108)
Paper No(s)/Mail Date 11/2/07
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 3-5, 7-14 and 16-26 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "garment-type" in claims 1, 11 and 21 is vague, confusion and indefinite because such phrase has no clear meaning. It is not clear what type of a disposable absorbent article is included or excluded from such phrase. The term "garment" is defined as an article of clothing, esp. of outer clothing (WEBSTER'S II New Riverside University Dictionary).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 4, 7 and 10 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Denny (3,403,776). To the extent that the Examiner can determine the scope of the claims, Denny discloses a package (1) enclosing a single disposable absorbent article (2) comprising a first piece of material (4) and a second piece of material (6). The first piece of material and the second piece of material are operatively associated with one another to enclose the absorbent article and the operative association defining a seal (7). At least a portion of the first piece of

material and at least a portion of the second piece of material extend beyond the seal to deliver an opening element. Denny further discloses the first piece of material formed from an air pervious paper and the second piece of material formed from a polypropylene film which is different rigidity than the first piece of material. Denny discloses the disposable absorbent article comprises sponge, swab and the like. The sponge or swab is inherently capable to be wore by a human between a human's skin and an article of clothing which is considered equivalent to a garment-type as claimed.

As to claim 3, Denny discloses the first piece of material formed from an air pervious paper and the second piece of material formed from a polypropylene film which is less rigid than the first piece of material.

As to claim 4, Denny discloses a second piece of material (4) and a first of material (6). The second piece of material formed from an air pervious paper and the first piece of material formed from a polypropylene film which is less rigid than the second piece of material.

As to claim 7, see Figure 4.

As to claim 10, since this claim does not indicate whether the package for holding the absorbent article in a folded or unfolded configuration, the absorbent article (2) of Denny is inherently capable to provided a ratio in a folded configuration to an unfolded configuration of no more than 0.09.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 21 is finally rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Whitefoot, Jr. (2,676,702). To the extent that the Examiner can determine the scope of the claim, Whitefoot discloses a package (15) in the embodiment of Figure 3 enclosing at least a single disposable absorbent article (16) comprising a first piece of material and a second piece of material. The first piece of material and the second piece of material are operatively associated with one another to enclose the absorbent article and the operative association defining a seal (18). The seal defined at least one lateral edge and at least one longitudinal edge, and at least a portion of the first piece of material and at least a portion of the second piece of material extend beyond the seal to deliver an opening tab (15e, 15f). The portion of the opening tab extends beyond at least one lateral edge of the seal and a portion of the opening tab extends beyond at least one longitudinal edge of the seal (the seal is spaced within the lateral edges and longitudinal edges of the package). To the extent that Whitefoot discloses a plurality of absorbent articles in lieu of a single absorbent article, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the package of Whitefoot so it comprises a single absorbent article to reduce the size of the package. Whitefoot discloses the disposable absorbent article comprises bandage or sponge. Since the bandage is inherently capable of being worn by a human by attaching to a human's skin which is considered equivalent to a garment-type as claimed.

6. Claim 1, 3-5, 7, 10-14, 20-24 and 26 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Denny (3,403,776) in view of Whitefoot (2,676,702). Denny discloses the package (1) enclosing a single disposable absorbent article (2) as above having all the limitation. To the extent that Applicant disagrees the sponge or swab being considered equivalent to a garment-type as claimed, Whitefoot shows a package (15) for holding at least a sponge or bandage and the bandage is capable to be wore by a human by attaching to a human's skin which is considered equivalent to a garment-type as claimed. It would have been obvious to one having ordinary skill in the art at the time the invention was made in view of Whitefoot to modify the package of Denny so the disposable absorbent article comprises a bandage/garment-type to allow the package of Denny for holding various types of absorbent articles.

As to claims 5 and 21, the package of Denny further fails to show a portion of the opening element being extended beyond at least one lateral edge of the seal and a portion of the opening element extends beyond at least one longitudinal edge of the seal. Whitefoot shows a package (15) in the embodiment of Figure 3 enclosing at least a single disposable absorbent article (16) comprising a first piece of material and a second piece of material. The first piece of material and the second piece of material are operatively associated with one another to enclose the absorbent article and the operative association defining a seal (18). The seal defined at least one lateral edge and at least one longitudinal edge, and at least a portion of the first piece of material and at least a portion of the second piece of material extend beyond the seal to deliver an opening tab (15e, 15f). The portion of the opening tab extends beyond at least one lateral edge of the seal and a portion of the opening tab extends beyond at least one longitudinal edge of the seal (the seal is spaced within the lateral edges and longitudinal edges of the package). It would have

been obvious to one having ordinary skill in the art in view of Whitefoot to modify the package of Denny so it includes a portion of the opening element extends beyond at least one lateral edge of the seal and a portion of the opening element extends beyond at least one longitudinal edge of the seal to facilitate opening the package.

As to claim 11, the absorbent article (2) of Denny is capable to provided a ratio in a folded configuration to an unfolded configuration of less than 0.14 because the absorbent article of Denny is capable to be folded to provided a ratio in a folded configuration to an unfolded configuration of less than 0.14.

7. Claims 8, 16 and 25 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1, 11 and 22 above, and further in view of The Japanese Patent No. 10-95481 to Narawa (hereinafter Narawa). The package of Denny further fails to show the package being vacuum packed.

Narawa shows a package (1) enclosing a single disposable absorbent article (2) comprising a vacuum packed. It would have been obvious to one having ordinary skill in the art in view of Narawa to modify the package of Denny as modified so the package is vacuum packed for better protecting the article and also reduce the size of the package.

8. Claims 9, 17 and 18 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 11 above, and further in view of Frank-Farah et al. (6,640,976; hereinafter Frank-Farah'976). The package of Denny further fails to show the opening element being coded to indicate the size or type of the article.

Frank-Farah'976 shows a package (10) for articles comprising color coded on the articles and instructions (34, column 5, lines 1-7) so a user can easily identify when an item is required (column 4, lines 65-67) which is considered equivalent to a type of an article. It would have been obvious to one having ordinary skill in the art in view of Frank-Farah'976 to modify the package of Denny as modified so the opening element includes coded to indicate the size or type of the article to provide more convenience for the user.

9. Claim 19 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 17 above, and further in view of The Official Notice. The package of Denny as modified further fails to show the coded being tactilely coded. The Official Notice is taken of the old conventional practice of providing tactilely coded for helping the visually handicapped user. It would have been obvious to one having ordinary skill in the art in view of The Official Notice to modify the package of Denny as modified so the coded comprises tactilely coded to provide more convenience for the visually handicapped user

10. Claims 1, 3, 4, 7, 10-14 and 20 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Weinberger (3,286,435) in view of Denny (3,403,776) or Anderson (4,896,768). Weinberger discloses a package (20) enclosing a single disposable absorbent article (21) comprising a first piece of material and a second piece of material. Weinberger also discloses that it is old and conventional to fold the absorbent article into a plurality of folds by folding the same in half, then quarters, then eights, sixteenths and so on until the desired small, compact size is reached so that the same may be enclosed in a relatively small flat package

(column 1, lines 22-30) which is considered equivalent to a ratio of the folded configuration to the unfolded configuration of less than 0.14 or no more than 0.09 as claimed. Weinberger also discloses the other claimed limitations except for the first piece of material and the second piece of material being different rigidities.

Denny shows a package (1) enclosing a single disposable absorbent article (2) comprising a first piece of material (4), a second piece of material (6) and the first piece of material and the second piece of material having different rigidities. Anderson teaches a package (10) enclosing a single disposable absorbent article (14) comprising a first piece of material (12, formed from two layers), a second piece of material (16, single layer) and the first piece of material and the second piece of material having different rigidities. It would have been obvious to one having ordinary skill in the art in view of Denny or Anderson to modify the package of Weinberger so the package comprises the first piece of material and the second piece of material having different rigidities to provide an additional strength and rigidity to the package. Weinberger discloses the disposable absorbent article comprises a cleansing towel, napkin or the like. The cleansing towel or napkin is inherently capable to be wore by a human between a human's skin and an article of clothing which is considered equivalent to a garment-type as claimed.

As to claim 11, Weinberger discloses the package with the ration as claimed. To the extent that Weinberger fails to provide an opening element, it would have been obvious to one having ordinary skill in the art at the time the invention was made in view of Denny or Anderson to modify the package of Weinberger so it includes an opening element defined by a portion of the layer of material extends beyond at least one lateral seal to facilitate opening the package.

11. Claim 5 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Whitefoot (2,676,702). The package of Weinberger as modified further fails to show a portion of the opening element being extended beyond at least one lateral edge of the seal and a portion of the opening element extends beyond at least one longitudinal edge of the seal.

Whitefoot shows a package (15) in the embodiment of Figure 3 enclosing at least a single disposable absorbent article (16) comprising a first piece of material and a second piece of material. The first piece of material and the second piece of material are operatively associated with one another to enclose the absorbent article and the operative association defining a seal (18). The seal defined at least one lateral edge and at least one longitudinal edge, and at least a portion of the first piece of material and at least a portion of the second piece of material extend beyond the seal to deliver an opening tab (15e, 15f). The portion of the opening tab extends beyond at least one lateral edge of the seal and a portion of the opening tab extends beyond at least one longitudinal edge of the seal (the seal is spaced within the lateral edges and longitudinal edges of the package). It would have been obvious to one having ordinary skill in the art in view of Whitefoot to modify the package of Weinberger as modified so it includes a portion of the opening element extends beyond at least one lateral edge of the seal and a portion of the opening element extends beyond at least one longitudinal edge of the seal to facilitate opening the package.

12. Claims 8 and 16 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 11 above, and further in view The Japanese Patent No.

10-95481 to Narawa (hereinafter Narawa). The package of Weinberger as modified further fails to show the package being vacuum packed.

Narawa shows a package (1) enclosing a single disposable absorbent article (2) comprising a vacuum packed. It would have been obvious to one having ordinary skill in the art in view of Narawa to modify the package of Weinberger as modified so the package is vacuum packed for better protecting the article and also reduce the size of the package.

13. Claims 9, 17 and 18 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 11 above, and further in view of Frank-Farah et al. (6,640,976; hereinafter Frank-Farah'976). The package of Weinberger as modified further fails to show the opening element being coded to indicate the size or type of the article.

Frank-Farah'976 shows a package (10) for articles comprising color coded on the articles and instructions (34, column 5, lines 1-7). It would have been obvious to one having ordinary skill in the art in view of Frank-Farah'976 to modify the package of Denny so the opening element includes coded to indicate the size or type of the article to provide more convenience for the user.

14. Claim 19 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 17 above, and further in view of The Official Notice. The package of Weinberger as modified further fails to show the coded being tactilely coded.

The Official Notice is taken of the old conventional practice of providing tactilely coded for helping the visually handicapped user. It would have been obvious to one having ordinary skill

in the art in view of The Official Notice to modify the package of Weinberger as modified so the coded comprises tactilely coded to provide more convenience for the visually handicapped user

15. Claims 21 and 26 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Weinberger (3,286,435) in view of Whitefoot (2,676,702). Weinberger discloses the package as above having all the limitations of the claims except for an opening tab and a portion of the opening tab being extended beyond at least one lateral edge of the seal and a portion of the opening tab being extended beyond at least one longitudinal edge of the seal.

Whitefoot shows a package (15) in the embodiment of Figure 3 enclosing at least a single disposable absorbent article (16) comprising a first piece of material and a second piece of material. The first piece of material and the second piece of material are operatively associated with one another to enclose the absorbent article and the operative association defining a seal (18). The seal defined at least one lateral edge and at least one longitudinal edge, and at least a portion of the first piece of material and at least a portion of the second piece of material extend beyond the seal to deliver an opening tab (15e, 15f). The portion of the opening tab extends beyond at least one lateral edge of the seal and a portion of the opening tab extends beyond at least one longitudinal edge of the seal (the seal is spaced within the lateral edges and longitudinal edges of the package). It would have been obvious to one having ordinary skill in the art in view of Whitefoot to modify the package of Weinberger so it includes an opening tab and a portion of the opening tab extends beyond at least one lateral edge of the seal and a portion of the opening tab extends beyond at least one longitudinal edge of the seal to facilitate opening the package.

16. Claims 22-24 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 21 above, and further in view of Denny (3,403,776) or Anderson (4,896,768). The package of Weinberger as modified further fails to show the first piece of material and the second piece of material comprises different rigidities.

Denny shows a package (1) enclosing a single disposable absorbent article (2) comprising a first piece of material (4), a second piece of material (6) and the first piece of material and the second piece of material having different rigidities. Anderson teaches a package (10) enclosing a single disposable absorbent article (14) comprising a first piece of material (12, formed from two layers), a second piece of material (16, single layer) and the first piece of material and the second piece of material having different rigidities. It would have been obvious to one having ordinary skill in the art in view of Denny or Anderson to modify the package of Weinberger as modified so the package comprises the first piece of material and the second piece of material having different rigidities to provide an additional strength and rigidity to the package.

17. Claim 25 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 21 above, and further in view of The Japanese Patent No. 10-95481 to Narawa (hereinafter Narawa). The package of Weinberger as modified further fails to show the package being vacuum packed.

Narawa shows a package (1) enclosing a single disposable absorbent article (2) comprising a vacuum packed. It would have been obvious to one having ordinary skill in the art in view of Narawa to modify the package of Weinberger as modified so the package is vacuum packed for better protecting the article and also reduce the size of the package.

Response to Arguments

Applicant's arguments with respect to all pending claims have been considered but are deemed to be moot in view of the new grounds of rejection.

In the remarks, Applicant lists the application no. 10/366,372 should be replaced with 10/366,872.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

lkb
February 28, 2008

/Luan K. Bui/
Primary Examiner
Art Unit 3728